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13 14	(additional counsel listed on signature page)				
	UNITED STATES DISTRICT COURT				
15	UNITED STATES	DISTRICT COURT			
15 16		DISTRICT COURT ICT OF CALIFORNIA			
	NORTHERN DISTR				
16	NORTHERN DISTR	ICT OF CALIFORNIA			
16 17 18	NORTHERN DISTRI	ICT OF CALIFORNIA E DIVISION  Case No. C06-05208-JF  STIPULATION AND [PROPOSED]			
16 17 18 19	NORTHERN DISTRICTION OF THE SAN JOSE MARTIN VOGEL and KENNETH MAHONEY, on Behalf of Themselves	ICT OF CALIFORNIA E DIVISION  Case No. C06-05208-JF			
16 17	NORTHERN DISTRICTION OF SAN JOSE  MARTIN VOGEL and KENNETH MAHONEY, on Behalf of Themselves and All Others Similarly Situated,	ICT OF CALIFORNIA E DIVISION  Case No. C06-05208-JF  STIPULATION AND [PROPOSED] ORDER REGARDING SCHEDULING AND RELATED MATTERS			
16 17 18 19 20 21	NORTHERN DISTRICTION  SAN JOSE  MARTIN VOGEL and KENNETH MAHONEY, on Behalf of Themselves and All Others Similarly Situated,  Plaintiffs,  v.  STEVEN P. JOBS, PETER OPPENHEIMER,	ICT OF CALIFORNIA E DIVISION  Case No. C06-05208-JF  STIPULATION AND [PROPOSED] ORDER REGARDING SCHEDULING			
16 17 18 19 20 21 22	NORTHERN DISTRICATION SAN JOSE  MARTIN VOGEL and KENNETH MAHONEY, on Behalf of Themselves and All Others Similarly Situated,  Plaintiffs,  v.  STEVEN P. JOBS, PETER OPPENHEIMER, FRED ANDERSON, WILLIAM V. CAMPBELL, MILLARD S. DREXLER,	Case No. C06-05208-JF  STIPULATION AND [PROPOSED] ORDER REGARDING SCHEDULING AND RELATED MATTERS  Department: Ctrm 3, 5 <sup>th</sup> Floor			
16 17 18 19 20	NORTHERN DISTRICATION SAN JOSE  MARTIN VOGEL and KENNETH MAHONEY, on Behalf of Themselves and All Others Similarly Situated,  Plaintiffs,  v.  STEVEN P. JOBS, PETER OPPENHEIMER, FRED ANDERSON, WILLIAM V.	Case No. C06-05208-JF  STIPULATION AND [PROPOSED] ORDER REGARDING SCHEDULING AND RELATED MATTERS  Department: Ctrm 3, 5 <sup>th</sup> Floor			
116 117 118 119 220 221 222 223	NORTHERN DISTRICATION SAN JOSE  MARTIN VOGEL and KENNETH MAHONEY, on Behalf of Themselves and All Others Similarly Situated,  Plaintiffs,  v.  STEVEN P. JOBS, PETER OPPENHEIMER, FRED ANDERSON, WILLIAM V. CAMPBELL, MILLARD S. DREXLER, ALBERT GORE, JR., ARTHUR D. LEVINSON, JEROME P. YORK and	Case No. C06-05208-JF  STIPULATION AND [PROPOSED] ORDER REGARDING SCHEDULING AND RELATED MATTERS  Department: Ctrm 3, 5 <sup>th</sup> Floor			
116 117 118 119 220 221 222 223 224	NORTHERN DISTRICATION  SAN JOSE  MARTIN VOGEL and KENNETH MAHONEY, on Behalf of Themselves and All Others Similarly Situated,  Plaintiffs,  v.  STEVEN P. JOBS, PETER OPPENHEIMER, FRED ANDERSON, WILLIAM V. CAMPBELL, MILLARD S. DREXLER, ALBERT GORE, JR., ARTHUR D. LEVINSON, JEROME P. YORK and APPLE COMPUTER, INC.,  Defendants.	Case No. C06-05208-JF  STIPULATION AND [PROPOSED] ORDER REGARDING SCHEDULING AND RELATED MATTERS  Department: Ctrm 3, 5 <sup>th</sup> Floor			
16 17 18 19 20 21 22 23 24 25	NORTHERN DISTRICATION  SAN JOSE  MARTIN VOGEL and KENNETH MAHONEY, on Behalf of Themselves and All Others Similarly Situated,  Plaintiffs,  v.  STEVEN P. JOBS, PETER OPPENHEIMER, FRED ANDERSON, WILLIAM V. CAMPBELL, MILLARD S. DREXLER, ALBERT GORE, JR., ARTHUR D. LEVINSON, JEROME P. YORK and APPLE COMPUTER, INC.,	Case No. C06-05208-JF  STIPULATION AND [PROPOSED] ORDER REGARDING SCHEDULING AND RELATED MATTERS  Department: Ctrm 3, 5 <sup>th</sup> Floor			

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1 2	MARTIN VOGEL and KENNETH MAHONEY, on Behalf of Themselves and All Others Similarly Situated,	Case No. C08-03123-JF
3	Plaintiffs,	
4	V.	
5	APPLE, INC., STEVEN P. JOBS, FRED ANDERSON, NANCY HEINEN, WILLIAM	
6	ANDERSON, NANCY HEINEN, WILLIAM V. CAMPBELL, MILLARD S. DREXLER, ARTHUR D. LEVINSON, and JEROME P.	
7	YORK	
8	Defendants.	
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STIPULATION & [PROPOSED] ORDER C06-05208-JF

1	WHEREAS, on August 24, 2006, plaintiffs Vogel and Mahoney filed a class action
2	complaint in this Court alleging that certain defendants violated the Securities Exchange Act of
3	1934 (the "Exchange Act"), including § 10(b) and Rule 10b-5 thereunder, and § 20(a). That
4	action is styled as Martin Vogel and Kenneth Mahoney v. Steven Jobs, et al., Case No. 5:06-cv-
5	05208-JF (N.D. Cal.) ("Vogel I");
6	WHEREAS, on January 19, 2007, this Court appointed the New York City Employees'
7	Retirement System ("NYCERS") as Lead Plaintiff in Vogel I and Grant & Eisenhofer P.A. as
8	Lead Counsel in Vogel I;
9	WHEREAS, on March 23, 2007, NYCERS filed, as Lead Plaintiff, the Consolidated
10	Complaint and asserted claims under §§ 14(a) and 20(a) of the Exchange Act and for the alleged
11	breach of the common law duty of disclosure. The Consolidated Complaint did not assert any
12	claims for alleged violations of §10(b) of the Exchange Act or Rule 10b-5 thereunder;
13	WHEREAS, on November 14, 2007, this Court granted the defendants' motion to dismiss
14	the Consolidated Complaint ("Dismissal Order");
15	WHEREAS, on December 14, 2007, NYCERS filed a motion for leave to file a First
16	Amended Consolidated Class Action Complaint to assert claims for alleged violations of § 10(b)
17	of the Exchange Act and Rule 10b-5 thereunder;
18	WHEREAS, on May 14, 2008, this Court denied NYCERS's motion for leave to file a
19	First Amended Consolidated Class Action Complaint ("Denial Order");
20	WHEREAS, on June 12, 2008, this Court entered Judgment for the defendants
21	("Judgment");
22	WHEREAS, on June 17, 2008, NYCERS filed its Notice of Appeal of the Dismissal
23	Order, the Denial Order, and the Judgment ("NYCERS's Appeal");
24	WHEREAS, on June 27, 2008, plaintiffs Vogel and Mahoney filed a new class action
25	complaint in this Court alleging that certain defendants violated the Exchange Act, including
26	§ 10(b) and Rule 10b-5 thereunder, and § 20(a). That action is styled Martin Vogel and Kenneth
27	Mahoney v. Apple Inc., et al., Case No. 5:08-cv-03123-JF (N.D. Cal.) ("Vogel II");

1	WHEREAS, pursuant to the parties' stipulation, on July 22, 2008, this Court entered an	
2	Order staying Vogel II pending resolution of NYCERS's Appeal;	
3	WHEREAS, on January 28, 2010, the Ninth Circuit Court of Appeals issued a ruling in	
4	NYCERS's Appeal affirming the Dismissal Order and reversing the Denial Order;	
5	WHEREAS, on February 19, 2010, the Ninth Circuit issued a mandate in NYCERS's	
6	Appeal;	
7	WHEREAS, on March 22, 2010, NYCERS filed a First Amended Consolidated Class	
8	Action Complaint in Vogel I captioned In Re Apple Inc. PSLRA Backdating Litigation ("First	
9	Amended Complaint");	
10	WHEREAS, the Court has scheduled a Case Management Conference in Vogel I on April	
11	30, 2010, at 10:30 a.m.;	
12	WHEREAS, the Court has scheduled a Case Management Conference in Vogel II on April	
13	9, 2010, at 10:30 a.m.;	
14	WHEREAS, the parties believe that Vogel I and Vogel II concern substantially the same	
15	parties, transactions or events and involve common questions of law or fact, and should be	
16	deemed related pursuant to Civil Local Rule 3-12 and consolidated pursuant to Rule 42 of the	
17	Federal Rules of Civil Procedure to avoid unnecessary cost or delay;	
18	NOW, THEREFORE, THE PARTIES STIPULATE, AND THE COURT HEREBY	
19	ORDERS, THAT:	
20	1. Vogel I and Vogel II shall be deemed related pursuant to Civil Local Rule 3-	
21	12 and <i>Vogel II</i> shall be consolidated with <i>Vogel I</i> pursuant to Rule 42 of the Federal Rules	
22	of Civil Procedure and 15 U.S.C. § 78u-4(a)(3)(B). NYCERS shall be Lead Plaintiff and	
23	Grant & Eisenhofer P.A. shall be Lead Counsel with respect to the consolidated action.	
24	2. The docket in <i>Vogel I</i> (Case No. 5:06-cv-05208-JF) shall constitute the Master	
25	Docket for this proceeding.	
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27	//	
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1 3. Every pleading in this proceeding shall bear the following caption: 2 UNITED STATES DISTRICT COURT 3 NORTHERN DISTRICT OF CALIFORNIA 4 SAN JOSE DIVISION 5 IN RE APPLE INC. Case No. C06-05208-JF SECURITIES LITIGATION 6 CLASS ACTION 7 THIS DOCUMENT RELATES TO: 8 9 4. When a pleading is intended to be applicable to all actions to which this 10 Order is applicable, the phrase "All Actions" shall appear immediately after the words "This 11 Document Relates To:" in the caption set out above. When a pleading is intended to be 12 applicable only to some, but not all, of such actions, the document shall list, immediately 13 after the phrase "This Document Relates To:", the docket number for each individual action 14 to which the document applies, along with the last name of the first-listed plaintiff in any 15 such action. 16 5. The Case Management Conference set for April 9, 2010, at 10:30 a.m. in 17 *Vogel II* shall be vacated. 18 6. The Case Management Conference set for April 30, 2010, at 10:30 a.m. in 19 *Vogel I* shall remain on calendar. 20 7. The First Amended Complaint filed in *Vogel I* shall be the operative 21 complaint for the consolidated action. Plaintiffs shall re-file the First Amended Complaint 22 with a corrected caption page to reflect the caption for the consolidated action. This 23 consolidation does not affect any separate right or defense asserted in any of the 24 consolidated actions. 25 8. Defendants shall file their responses to the First Amended Complaint by 26 June 25, 2010. 9. 27 In the event that Defendants respond to the First Amended Complaint by 28 filing motions, the briefing and hearing schedule for Defendants' motions will be:

## Case 5:08-cv-03123-JF Document 16 Filed 04/08/10 Page 6 of 8 1 Plaintiffs' Oppositions Due: July 27, 2010 2 Defendants' Replies Due: August 17, 2010 3 Hearing: To be set by the Court. 10. Defendants shall not be required to file any responsive pleading to the 4 5 pending complaint in Vogel II. 6 IT IS SO STIPULATED. 7 Dated: April 7, 2010 GEORGE A. RILEY O'MELVENY & MYERS LLP 8 By: /s/ George A. Riley 9 George A. Riley 10 Attorneys for Defendant 11 APPLE INC. 12 Dated: April 7, 2010 DOUGLAS R. YOUNG (S.B. #73248) 13 FARELLA BRAUN & MARTEL LLP **Russ Building** 14 235 Montgomery Street, 17th floor San Francisco, CA 94104 15 (415) 954-4400 Telephone: (415) 954-4480 Facsimile: 16 E-Mail: dyoung@fbm.com 17 /s/ Douglas R. Young By: 18 Douglas R. Young 19 Attorneys for Defendants 20 STEVEN P. JOBS, WILLIAM V. CAMPBELL, MILLARD S. DREXLER, 21 ARTHUR D. LEVINSON and JEROME B. **YORK** 22 23 24 25 26 27

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	Case 5:08-cv-03123-JF	Document 16	Filed 04/08/10 Page 7 of 8
1 2	Dated: April 7, 2010		JEROME C. ROTH (S.B. #159483) YOHANCE C. EDWARDS (S.B. #237244) MUNGER, TOLLES & OLSON LLP
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9			Attorneys for Defendants FRED D. ANDERSON and NANCY R. HEINEN
10			
11	Dated: April 7, 2010		JAY W. EISENHOFER (admitted pro hac vice)
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23			THE NEW YORK CITY EMPLOYEES' RETIREMENT SYSTEM
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27			
28			
		_ 4	STIPULATION & [PROPOSED] ORDER

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1 2 3 4	Dated: April 7, 2010  PATRICE L. BISHOP (S.B. #182256) STULL, STULL & BRODY 10940 Wilshire Boulevard, Suite 2300 Los Angeles, California 90024 Telephone: (310) 209-2468 Facsimile: (310) 209-2087 E-Mail: service@ssbla.com
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14	Attorneys for Plaintiffs
15	MARTIN VOGEL and KENNETH MAHONEY
16	
17	I, George A. Riley, am the ECF User whose ID and password are being used to file this
18	Stipulation and [Proposed] Order Regarding Scheduling and Related Matters. In compliance with
19	General Order 45, X.B., I hereby attest that Douglas R. Young, Yohance C. Edwards, Michael J.
20	Barry, and Patrice L. Bishop have concurred in this filing.
21	By: /s/ George A. Riley
22	George A. Riley
23	<u>ORDER</u>
24	PURSUANT TO THE PARTIES' STIPULATION, IT IS SO ORDERED.
<ul><li>25</li><li>26</li></ul>	DATED: April <u>8</u> , 2010
27	The Ionorable of my ogel Used States District Judge
28	MP1:1191444.3
	STIPLII ATION & [PROPOSED] ORDER